

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Case No. _____

CHRIS LUTTRELL AND DAWN DAVIDE LUTTRELL,

Plaintiffs,

-vs-

AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY,

Defendant.

**DEFENDANT AMERICAN NATIONAL PROPERTY AND CASUALTY
COMPANY'S NOTICE OF REMOVAL**

Defendant American National Property And Casualty Company (hereinafter "Defendant") by and through its attorneys of record, Doughty, Alcaraz & deGraauw (J. Andrew deGraauw and William W. Wirkus), pursuant to 28 U.S.C. § 1332, 1441, and 1446, hereby submits the following Notice of Removal to the United States District Court for the District of New Mexico. In support thereof, Defendant states as follows:

1. Pursuant to 28 U.S.C. § 1332, this Court "shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest, and is between citizens of different states." 28 U.S.C. § 1332(c)(1) provides that "a corporation shall be deemed to be a citizen of any state by which it has been incorporated and of the state where it has its principal place of business..."

2. On or about May 31, 2016, the New Mexico Office of Superintendent of Insurance, as statutory agent for Defendant, was served with Plaintiff's Complaint to Recover Damages for Personal Injury (hereinafter "Complaint") filed in the Second Judicial District Court, County of Bernalillo, State of New Mexico, captioned, *Chris Luttrell and*

Dawn Davide Luttrell vs. American National Property And Casualty Company, Case No. D-202-CV-2016-02710. *See* pleadings filed therein, attached hereto as **Exhibit A**.

3. Plaintiffs, Chris and Dawn Luttrell (hereinafter “Plaintiffs”), filed their Complaint in Bernalillo County, Second Judicial District Court on or about April 28, 2016.

4. During all times relevant to the Complaint, Plaintiffs were citizens of New Mexico.

5. At all relevant times, Defendant was a foreign corporation, incorporated in, and with its principal place of business in the State of Missouri. Defendant is now and was at all relevant times a citizen of the State of Missouri for purposes of diversity jurisdiction.

6. The underlying event for this case, was the sending of a “cease and desist” by Defendant’s attorney during another lawsuit, prematurely filed by the Plaintiffs, entitled *Chris Luttrell, et. al. v American National Property And Casualty Company, et. al.* – Cause No. D-202-CV-2015-05811, in New Mexico’s 2nd Judicial District Court (hereinafter referred to as “Luttrell I”). The sole factual basis for the instant case is “litigation conduct” that occurred in Luttrell I.

7. Venue for this Removal is proper in the United States District Court for the District of New Mexico, because this District includes Bernalillo County, New Mexico – the location of the pending state court action.

8. Plaintiffs claim that, as a consequence of the “cease and desist” letter described above, they have suffered damages, including “mental anguish” and “increased apprehension.” In addition, they make several insurance bad faith allegations, which places the original vehicle theft indemnification amount in controversy as compensatory damages (UJI 13-1712 and 13-1716 NMRA), treble damages (§57-12-10(b) NMSA), punitive

damages (UJI 13-1718 NMRA), and attorney's fees. The amount in controversy is clearly in excess of \$75,000.

9. Upon filing of this Notice, removal is effective by operation of law. Pursuant to 28 U.S.C. § 1441, this Notice serves to remove the above captioned case from the Second Judicial District Court unless and until such time as the United States District Court for the District of New Mexico remands the case pursuant to 28 U.S.C. § 1447(c).

10. The Defendants file and present herewith the sum of \$350.00.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed promptly with the Office of the Clerk of the Second Judicial District Court and written notice of removal will be provided promptly to counsel of record for the Plaintiff.

Conclusion

As stated herein, this matter arises between parties of diverse citizenship, exceeds the appropriate amount in controversy requirement, and it is therefore proper to invoke the subject matter jurisdiction of this Court.

Respectfully submitted,

DOUGHTY, ALCARAZ & DEGRAAUW, P.A.

By:  _____

J. Andrew deGraauw

William W. Wirkus

Attorneys for Defendant American National Property
and Casualty Company

20 First Plaza NW, Suite 412

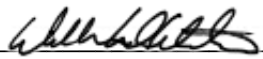
Albuquerque, NM 87102

(505) 242-7070

CERTIFICATE OF SERVICE

I certify that on June 30, 2016, a true and accurate copy of this Notice of Removal was sent by e-mail to the following counsel of record in this action:

Thomas J. Mescall, II
Mescall Law Firm, P.C
5201 Constitution Avenue NE
Albuquerque, NM 87110
tom@mescalllaw.com



J. Andrew deGraauw
William W. Wirkus